

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case Number 14-20141

Honorable David M. Lawson

ANTONIO P. FONTANA,

Defendant.

_____ /

AMENDED PRELIMINARY ORDER OF FORFEITURE

On November 28, 2016, the government filed an unopposed application for entry of an amended preliminary order of forfeiture. The government represents that while completing its administrative work to finalize the forfeiture in this case, it discovered that the description of the HP Desktop computer's serial number was incorrect. The government filed the present application to change the HP desktop computer serial number from (s/n) 70974200185 to MXL6210406. Accordingly, the Court will enter an amended preliminary order of forfeiture to reflect the correct serial number.

On August 11, 2016, the government filed an application for entry of preliminary order of forfeiture. On March 13, 2016, a twelve-count indictment was filed against defendant Antonio P. Fontana charging him with coercion and enticement in violation of 18 U.S.C. § 2422(b), production of child pornography in violation of 18 U.S.C. § 2251(a), distribution of child pornography in violation of 18 U.S.C. 2252A(a)(2), extortion in violation of 18 U.S.C. § 875(d), and cyberstalking in violation of 18 U.S.C. § 2261A(2)(A). On January 13, 2016, Fontana entered into a Rule 11 Plea Agreement, under which he pleaded guilty to coercion and enticement, production of child pornography, and Internet extortion. Fontana further agreed, pursuant to 18 U.S.C. §§ 2253 and

2428, to forfeit his title and interest in property involved in the offense as enumerated in the agreement. In the Rule 11 agreement, the defendant expressly waived his right to challenge any failure by the Court to advise him of his rights with respect to forfeiture as provided by Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure.

Accordingly, the following is **ORDERED**:

1. Pursuant to 18 U.S.C. §§ 2253 and 2428, the following property **IS HEREBY FORFEITED** to the United States for disposition in accordance with the law:

- HP Desktop computer, serial number MXL6210406;
- Western Digital hard drive, s/n WXHIE33WAJP3;
- Acer Aspire V3 laptop with two wireless dongles, s/n NXRZFAA0062410F29A3400;
- Blackberry Playbook tablet with charging dock, serial number 134498189342;
- 256 MB Pro Secure Digital flash card;
- 2 GB SD Traveler USB memory card;
- 8 GB green data traveler USB memory card;
- LG Slide cellular telephone, s/n 905KPUU101854;
- LG cellphone, s/n 007KPSL018006;
- LG cellphone, s/n 205KPZK025325;
- Black Samsung cellphone with broken cover, s/n R6VQB72598F;
- Black LG cellphone, s/n 011KPWQ160033;
- 8 GB Lexar USB memory card;
- Logitech webcam, s/n NO SERIAL NUMBER;

- Duracell USB memory 16 GB;
- Sony video recorder, s/n 1685393;
- CDs/DVDs seized from defendant's Pickering, Ontario home;
- SD cards seized from defendant's Pickering, Ontario home; and
- Polaroid waterproof camera, s/n SL35V-02;

(which is hereinafter referred to as the “Subject Property”), and any right, title or interest of defendant Antonio P. Fontana, and any right, title or interest that his heirs, successors, assigns have or may have in the Subject Property **IS HEREBY AND FOREVER EXTINGUISHED.**

2. Upon entry of this Amended Preliminary Order of Forfeiture, the United States Attorney General or his designee is authorized to commence any applicable proceeding to comply with the statutes governing third party rights, including giving notice of this Order.

3. Upon entry of this Order, the United States shall publish on www.forfeiture.gov notice of this Amended Preliminary Forfeiture Order and of its intent to dispose of the Subject Property in such manner as the Attorney General may direct, pursuant to 21 U.S.C. § 853(n). The notice shall direct that any person other than defendant Antonio P. Fontana asserting a legal interest in the Subject Property may file a petition with the Court within thirty (30) days of the final publication of notice or of receipt of actual notice, whichever is earlier. The United States may also, to the extent practicable, provide direct written notice to any person or entity known to have an alleged interest in the Subject Property.

4. The petition must be signed by the petitioner under penalty of perjury and must set forth the nature and extent of the petitioner’s alleged right, title or interest in the Subject Property,

the time and circumstances of the petitioner's acquisition of the right, title, or interest in the Subject Property, any additional facts supporting the petitioner's claim, and the relief sought.

5. After the disposition of any motion filed under Fed. R. Crim. P. 32.2(c)(1)(A) and before a hearing on the petition, discovery may be conducted in accordance with the Federal Rules of Civil Procedure upon a showing that such discovery is necessary or desirable to resolve factual issues.

6. The petition shall be for a hearing before the Court alone, without a jury and in accordance with 21 U.S.C. § 853(n), to adjudicate the validity of the petitioner's alleged interest in the Subject Property.

7. Pursuant to Fed. R. Crim. P. 32.2(b)(3), this Amended Preliminary Order of Forfeiture shall become final as to Antonio P. Fontana upon being entered. If no third party files a timely claim, this Order shall become the Final Order of Forfeiture, as provided by Fed. R. Crim. P. 32.2(c)(2).

8. The United States shall have clear title to the Subject Property following the Court's disposition of all third-party interests, or, if none, following the expiration of the period provided in 21 U.S.C. § 853(n)(2) for the filing of third party petitions.

9. The Court retains jurisdiction to enforce this Order and to amend it as necessary pursuant to Fed. R. Crim. P. 32.2(e).

10. Pursuant to Fed. R. Crim. P. 32.2(b)(4)(B), forfeiture shall be included in the amended judgment and commitment order.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: December 8, 2016

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on December 8, 2016.

s/Susan Pinkowski
SUSAN PINKOWSKI